

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

OP.No. 28159 of 2001(S)

OA.545/1998 of CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH
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PETITIONER:

1. T.M. GOPALAKRISHNAN S/o LATE K.M.NARAYANAKURUP,
EXTRA DEPARTMENTAL SUB POST MASTER, E.D. SUB POST OFFICE
TANUR NAGARAM P.O., MALAPPURAM DISTRICT
2. V.K. KUNJUMON S/o HAMZA V.K. E.D. BRANCH POST MASTER
E.D. BRANCH POST OFFICE, PALERI, PIN 673508
3. A. SURENDRAN S/o CHATHUKUTTY, EXTRA DEPARTMENTAL
MAIL CARRIER, MORIKKARA POST, KAKKODI VIA 673611
4. SECRETARY, BHARATHIYA EXTRA DEPARTMENTAL
EMPLOYEES UNION, VADAKARA DIVISION (AFFILIATED
TO BMS) REPRESENTED BY A. SEKHARAN, EXTRA
DEPARTMENTAL DELIVERY AGENT, QUILANDY
5. E.D. AIKYAVEDI STATE COMMITTEE (POSTAL)
REG. NO 260/92 P.O. MUYIPOTH, MEPPAYUR,
KOZHIKODE DISTRICT PIN 673524 REPRESENTED
BY ITS CONVENOR, K. VALSALAN, E.D. ASSISTANT
MUYIPOTH

BY ADV. SRI.SIVAN MADATHIL

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY SECRETARY TO
GOVERNMENT, DEPARTMENT OF POSTS, MINISTRY OF
COMMUNICATIONS, DAK BHAVAN, SANSAD MARG,
NEW DELHI 110001
2. DIRECTOR GENERAL (POSTS) DAK BHAVAN, SANSAD
MARG, NEW DELHI 110001
3. CHAIRMAN POSTAL SERVICE BOARD, DEPARTMENT
OF POSTS, MINISTRY OF COMMUNICATIONS,
DAK BHAVAN, SANSAD MARG, NEW DELHI 110001
4. CHIEF POST MASTER GENERAL, KERALA CIRCLE,
TRIVANDRUM

5. THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MANAPPATTIPARAMBU, KALOOR REP. BY ITS REGISTRAR

BY ADV. SRI.P. PARAMESWARAN NAIR,
ASST. SOLICITOR GENERAL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 16/07/2007, THE COURT ON 31/07/2007 DELIVERED THE
FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

O.P. No 28159 of 2001

Dated: 31st July 2007

JUDGMENT

Radhakrishnan, J.

This original petition has been preferred against the order passed by the Central Administrative Tribunal, Ernakulam Bench in O.A. No 545 of 1998. Application was preferred by the petitioners herein seeking a direction to the respondents to declare that the ED Agents including the petitioners are entitled to get appropriate scales of pay and proportionate wages equal to their corresponding counterparts in the regular establishment and also for other consequential reliefs.

2. Counsel appearing for the writ petitioners submitted that counsel was absent when the case was called and therefore he could not properly address his arguments before the Tribunal. Hence the application was dismissed.

3. We heard counsel for the petitioners as well as counsel appearing for the Union of India. Though the Tribunal has passed

the order without hearing the counsel for the petitioners, it has rightly come to the conclusion that ED Agents are not entitled to have proportionate scale of pay and proportionate wages compared to the employees who are working in regular establishment. As already held by the apex court in Superintendent of Post Officers and others v. P.K. Rajamma (1977 (3) SCC 94) the post of ED Agent is outside the regular civil service. Evidently they cannot claim benefit available to employees of regular service since method of appointment, nature of duties etc. differs; so also the establishment itself. Further it is also noticed that Government have made a wage structure of granting them Time Related Continuity Allowance accepting the recommendation of Justice Talwar Commission. That being the situation, we find no reason to entertain this writ petition. Writ petition would stand dismissed.

K.S. RADHAKRISHNAN
Judge

ANTONY DOMINIC
Judge

31/07/2007
en/

APPENDIX

Petitioners' exhibits:

Ext.P1 - True copy of O.A 545/98 filed before the Hon'ble Central Administrative Tribunal by the petitioners.

Ext.P2 - True copy of order dated 19.6.2000 in O.A 545/98 by the Hon'ble Central Administrative Tribunal

Fourth respondent's exhibits:

Ext R4(A) - True copy of Rules framed in supersession of Post and Telegraphs Extra Departmental Agents (Conduct & Service) Rules 1964 came into force w.e.f. 24.4.2001

Ext R4(B) - True copy of order dated 1.2.2001 in O.A No 825/99 of the C.A.T Madras Bench

Ext.R4(C) - True copy of letter No 26-1/97-PC & ED Cell dated 17.12.1998 of the Director General of Posts, New Delhi

[true copy]